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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,534	11/20/2003	Larry W. Simnacher	1170-9	7984

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06/13/2006

EXAMINER
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KRUE, STEFAN

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/717,534	<b>Applicant(s)</b> SIMNACHER, LARRY W.	
	<b>Examiner</b> Stefan Krueer	<b>Art Unit</b> 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21 - 37 is/are pending in the application.
- 4a) Of the above claim(s) 30 - 37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21 - 26 is/are rejected.
- 7) ☒ Claim(s) 27 - 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

**Claims 30 – 37** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9 May 2006.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 21** recites the limitations "the" in "the axle" and "said" in "said first scissors" and "said second scissors". There are insufficient antecedent bases for these limitations in the claim.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 21 – 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Simnacher (5,303,969) in view of Anibas (2002/0139618).

**Re: Claim 21**, Simnacher discloses a body (22) having a storage area therein, said body having a door (64, 66, or 68) that enables access to the storage area. Though Simnacher discloses a hydraulic lifting means, Anibas teaches a scissor lifting means (Fig.'s 1 and 2) as a "... mechanism providing force while maintaining parallelism between a base structure and a movable structure (which) is comprised of opposed pair of linked, rotatably mounted, support arms..." with the lifting means of Anibas capable of moving said body between a first and second position.

Furthermore, Anibas teaches his first and second scissors (both 3), said scissors having respective first and second wheels (Fig. 2, 5) positioned on their axles (Fig. 2,

Art Unit: 3654

not numbered), and a linkage (7) extending from the axles of said first scissors to the axles of said second scissors, said linkage being received by said wheel members, thereby providing a straightforward mechanical means to raise the body, precluding the need for piping, valves and other items typical to hydraulic systems.

It would have been obvious to one having ordinary skill in the art to modify the invention of Simnacher with the teaching of Anibas, in order to exploit the simple, space-saving and cost-effective features of Anabis.

**Re: Claim 21**, while Simnacher discloses the said body (22) with an indentation (28), similar if not identical to that of the apparent invention (28), of area greater than the wheel well of the truck, Simnacher does not disclose a top plate of a scissor lifting means affixed to said body within the indentation, but rather hydraulically actuated piston-and-cylinders (42) mounted on either ends (34 and 36) of the body.

Anabis teaches his scissor lifting mechanism with both a top plate (2) and a bottom plate (1), his top plate as the moveable structure and his bottom plate as the immovable, base structure, wherein his first and second scissors (3 and 4) are pivotally connected at each of their ends to one of said top and bottom plates, and a motor (11, Col. 2, Line 3) cooperative with at least one of first and second scissors for moving the top plate relative to the bottom plate.

It would have been obvious to one having ordinary skill in the art to modify the invention of Simnacher with the teaching of Anibas in order to provide a motorized, compact lifting means.

**Re: Claim 23**, Simnacher discloses said body with an indentation (28) of area greater than the wheel well of the truck; however, Simnacher does not disclose a top plate affixed to said body within the indentation, but rather hydraulically actuated piston-and-cylinders (42) mounted on either ends (34 and 36) of the body.

Anabis teaches a lifting mechanism with a top plate (2), his lifting mechanism allowing for use of "...lighter structures... and requiring less energy than conventional scissor lift mechanisms..." while maintaining parallelism (Page 2, Line 8).

It would have been obvious to one having ordinary skill in the art to modify the invention of Simnacher with the teaching of Anibas to affix the top plate to the body within said indentation to provide a compact, power-saving and level lifting means.

**Re: Claim 24**, Simnacher discloses a surface (18) on the bed of the truck as being a wheel well of the truck.

**Re: Claim 25**, Simnacher does not disclose a scissor lifting mechanism.

Anabis teaches two (2) "... opposed arm assemblies ..." whereby "... each consist of two arms... of equal length which are pivotally mounted to each other in the center of each arm assembly" and that each arm assembly "... is rotatably mounted to the base structure... and to the movable structure..." Thereby, Anabis teaches a first beam (4) having one end secured to said top plate (2), and a second beam (4) having an end pivotally secured to said bottom plate (1) and said first beam having an opposite end pivotally connected to an opposite end of said second beam (See Fig. 1).

**Re: Claim 26**, Anabis teaches an axle (10) extending through the pivotal connection ("... arm assembly central pivot points...") of said first beam (4) with said second beam (4) and that the axle can be "...turned... by motor..." (Page 2, Line 8).

### ***Allowable Subject Matter***

**Claims 27- 29** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Though Eisenberg (4,405,116) of the previous action teaches the use of "...two parallel spindles for adjusting the scissors..." **Claim 27** contains allowable subject matter because the teachings of the prior art of record taken as a whole do not show or render obvious the combination set forth.

***Examiner's Comments***

Examiner acknowledges that reference to rejection of Claim 17 in conjunction with Claim 16 was in error.

The new independent **Claim 21** failed to include the limitations of previous Claim 5 and its dependent Claim 6, on which previous Claim 7 was dependent, as intended pursuant to the Remarks accompanying the amendments filed on 1 Feb. 2006.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

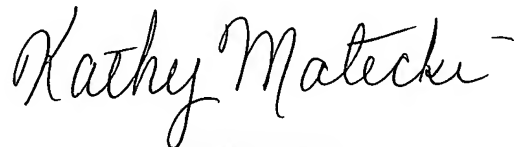
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571.272.6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3654

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SHK

2 June 2006



**KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
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